



OFFICE OF THE ATTORNEY GENERAL OF TEXAS
AUSTIN

GERALD C. MANN
ATTORNEY GENERAL

Honorable H. Pat Edwards
Civil District Attorney
Dallas, Texas

Dear Sir:

Opinion No. 0-4325
Re: Whether lease contract
must be stamped to be
recorded.

In your letter of January 15, 1942, you request our opinion as to whether the Stamp Tax levied by Article 7047e, Vernon's Annotated Civil Statutes, must be paid upon the recording of a written lease contract on real property.

Said Article reads in part as follows:

"Except as herein otherwise provided, there is hereby levied and assessed a tax of ten (10¢) cents on each One Hundred Dollars (\$100.00) or fraction thereof, over the first Two Hundred (\$200.00) Dollars, on all notes and obligations secured by chattel mortgage, deed of trust, mechanic's lien contract, vendor's lien, conditional sales contract and all instruments of a similar nature which are filed or recorded in the office of the County Clerk under the Registration Laws of this State; provided that no tax shall be levied on instruments securing an amount of Two Hundred (\$200.00) Dollars, or less. . . ."

You do not advise us definitely whether a contract lien is expressly provided in the lease contract or not. We enclose copy of our Opinion No. 0-2636 wherein we expressed the view that such an instrument need not be stamped if no lien of any nature is created in the instrument. However, you have sent to us a copy of certain correspondence from which it seems probable that the lease contract with which you are concerned contains a clause which retains a lien against all furniture, fixtures, etc., for the payment of the rent specified in the

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contract. If so, it gives rise to a lien quite similar to if not actually a chattel mortgage. The rental due is an obligation whether in the form of a note or not. If the lease contract contains such a clause creating a lien on personal property to secure payment of the rental obligation it is our opinion that the instrument must be stamped in accordance with the provisions of Article 7047e before it will be entitled to record.

Yours very truly

ATTORNEY GENERAL OF TEXAS

By (s) Glenn R. Lewis
Assistant

APPROVED FEB. 18, 1942
Grover Sellers
FIRST ASSISTANT
ATTORNEY GENERAL

APPROVED
Opinion Committee
By B.W.B. Chairman

GRL:db